

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

PHYLLIS STALLINGS, Ed.D.

Plaintiff,

**Phyllis Stallings Ed.D.
1492 Sheridan St
Detroit, MI 48214-2408**

Case:2:14-cv-13189
Judge: Roberts, Victoria A.
MJ: Whalen, R. Steven
Filed: 08-18-2014 At 01:37 PM
cmp STALLINGS V. DETROIT PUBLIC SCHOOLS (TAM)

v.

DETROIT PUBLIC SCHOOLS

Defendant,

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

There is no other civil action pending in this Honorable Court or any other Court arising out of the same transaction and occurrence.

INTRODUCTION

Plaintiff, Dr. Phyllis M. Stallings, was forced into retirement by Defendant in violation of her rights under the Americans with Disabilities Act (ADA), and the Michigan Persons with Disabilities Act (PWDCRA).

On August 26, 2013, Plaintiff reported to her assigned worksite, Carver Elementary at 7:30 a.m., and signed the sign-in sheet for teachers' signatures. Plaintiff verbally requested Principal Sabrina Evans for permission to be allowed to report to Human Resources off campus in the Fisher Building. Principal Evans verbally gave her consent, after photocopying documents issued by Plaintiff's surgeon.

Plaintiff met with Employee Health Services (EHS) Executive Director, Todd Faison, at HR, Director of Placement, Cassandra Washington-Latham and Chief of Human Resources, Gwendolyn A. de Jongh, Esq. While trying to convey her predicament to Ms. Washington-Latham, she asked Ms. Washington-Latham may she be allowed to show her documents to her, and she was informed by Ms. Washington-Latham, that she didn't have time to look at Dr. Stallings' documents. Chief of HR, Gwendolyn A. de Jongh, Esq. asked Dr. Stallings was she ZA endorsed to teach an early childhood classroom where there were eight (**8**) teacher vacancies in the District, and Dr. Stallings replied, "No, I'm not ZA endorsed, rather, I'm nationally certified in the United States to teach early childhood education (ECE). Early Childhood Education is where I've taught practically my entire ten (**10**) years as a DPS employee." Ms. de Jongh informed Dr. Stallings to return home, and await her decision. On 8/26/2013, Ms. de Jongh's assistant, Valerie Hampton telephoned Dr. Stallings' home informing her to report to Carver Elementary on 8/27/2013 for work per Ms. de Jongh's decision. Dr. Stallings asked Ms. Hampton what grade level had she been assigned and Ms. Hampton's reply was, "I don't know, that's up to Principal Evans." Dr. Stallings informed Ms. Hampton that she had been given medical forms by EHS executive director, Todd Faison that day, to have completed by her surgeon. Ms. Hampton advised Dr.

Stallings to continue to wait on her medical forms she had submitted to her surgeon. Dr. Stallings used allotted days in her sick bank while she convalesced at home, and continued to attend rehabilitation twice weekly at DMC's Brasza Institute.

On September 3, 2013, Dr. Stallings returned all forms given to her by EHS executive director Todd Faison, completed by her surgeon, to EHS employee, Pamela Blakey in HR. Ms. Blakey told Dr. Stallings that Mr. Faison wasn't working that day which was Tuesday, the day after the Labor Day holiday. Ms. Blakey took Dr. Stallings' FMLA and Health Care Provider forms and stamped them with the date, the wrong date. When Dr. Stallings returned home, she and her husband Horace Stallings, realized that Ms. Blakey had stamped HR's and her copies with an incorrect date; instead of 9/3/13, she stamped 9/9/13. Mr. Stallings became alarmed when he saw the egregious error, and he personally returned to HR on 9/3/13, and asked Ms. Blakey to rectify her mistake; she simply wrote a 3 on top of the 9. At least that's what he thinks occurred, he remained in the lobby while the receptionist confronted Ms. Blakey.

While at the rehabilitation institute on 9/5/13, Dr. Stallings received a telephone call from a colleague apprising her of a specific opening at Fleming Elementary. She was eager to get placement at this venue because it was near the rehabilitation institute, unlike Carver Elementary, which was a block or so from the city of Dearborn. The following morning, Friday 9/6/13, Dr. Stallings contacted Assistant Superintendent of Primary Education (prekindergarten through third grade) for Detroit Public Schools, Wilma Taylor-Costen (313)303-0257 to see if she could fill a teacher vacancy in ECE at Fleming Elementary. Dr. Stallings has a master degree in ECE from Howard University (1991), a doctorate (Ed.D. 2011) in curriculum and instruction with a concentration in ECE from Wayne State University, and an Ed.S. in educational leadership (administration) also from WSU. She has both a Michigan certificate in administration (K-12) and teaching endorsing her to teach prekindergarten through eighth grade self-contained. Ms. Taylor-Costen's reply to Dr. Stallings' request was, "I'm in traffic, and I don't have time to talk with you Dr. Stallings, you must ask HR to be placed in ECE." Dr. Stallings has worked in the ECE program at DPS for ten (**10**) years. When Dr. Stallings began working for DPS in December 2002, she was paid a three (**3**) year signing bonus to teach in the ECE program because it was considered a shortage area at the time. This makes the second time Dr. Stallings has requested placement in her endorsement area, ECE. On 8/26/13, she apprised Chief of Human Resources, Gwendolyn A. de Jongh, Esq. of her ECE certification, and desire to be returned to ECE. Dr. Stallings' desire to be accommodated in an ECE teaching position was ignored by two (2) DPS executives; Assistant Superintendent Taylor-Costen, and Chief of HR de Jongh. On 9/6/13, Dr. Stallings emailed placement counselor Gregory Stokes, executive director for placement Cassandra Washington-Latham, and superintendent of academics Karen Ridgeway, requesting that she be returned to ECE. She stated specifically in Ms. Ridgeway's email that her surgeon would permit her to work in ECE. The only reply she received from the three (3) emails was from Mr. Stokes, advising her to email executive director of placement, Ms. Washington-Latham. At this juncture, five (5) HR executives were apprised by Dr. Stallings that she would like to be returned to the ECE program. Her efforts were in vain. She continued phoning in sick.

On Monday 9/9/13, Dr. Stallings once again went to HR, this time to see if she could meet with executive director of placement, Cassandra Washington-Latham. Human Resources receptionist Mark, informed Dr. Stallings that Ms. Washington-Latham was on the telephone, and following that task, she would be enroute to a conference, and she said that she wouldn't be able to meet with Dr. Stallings. Keep in mind, on 8/26/13, Ms. Washington-Latham informed Dr. Stallings that she didn't have time to

peruse her medical documents, either, and she told Dr. Stallings that she wasn't going to give her a job she wasn't qualified to do. Dr. Stallings saw HR director, William (Bill) Lyons that morning, and she requested an ECE teaching position, and Mr. Lyons' reply to Dr. Stallings was, "No, ECE has to ask for you, and besides, you can't walk." He further informed Dr. Stallings that she was to report to Carver Elementary on 9/10/13 because DPS was contemplating her termination. Now on Friday 9/6/13, assistant superintendent of ECE, Wilma Taylor-Costen informed Dr. Stallings via telephone that she must let HR know her request to be placed in ECE. She too, didn't have time to talk to Dr. Stallings about an ECE placement because she was in traffic. It was a "yes" or "no" answer. Human Resources director, Bill Lyons, on Monday 9/9/13, told Dr. Stallings the opposite of what Ms. Taylor-Costen told her on 9/6/13. He said that ECE had to request Dr. Stallings in order for her to get an ECE teaching position. Are you losing count? Human Resources Director Bill Lyons is executive #6 who was informed by Dr. Stallings since 8/26/13 that she wished to be returned to the ECE program. Stay focused please, the "dog and pony" show is almost over!

The coup de grace was the tumultuous encounter Dr. Stallings had with Employee Health Services (EHS) Executive Director, Todd Faison. Mr. Faison is the HR executive on 8/26/13 who gave Dr. Stallings the medical forms to give to her surgeon.

After learning of her impending termination from HR director Bill Lyons, Dr. Stallings met with Mr. Faison to apprise him of Mr. Lyons' threat. He responded by slamming his right hand on the table, and bellowing, "That's because you won't go to work!" Dr. Stallings asked Mr. Faison, executive #7, could she be returned to ECE. Mr. Faison didn't respond to the question. After his cacophonous retort, Dr. Stallings hurriedly grabbed her walker, and inched her path to the closed office door before Mr. Faison became even further unhinged.

Once home, Mr. Faison issued an **ultimatum** via email, apprising Dr. Stallings that her request for an illness leave was denied, and that she would receive no accommodations, and that she must immediately report to her assigned worksite which was Carver Elementary, still no grade level assigned, retire or resign, or face termination from the District.

At no time, did Detroit Public Schools' officials engage in the requisite "case by case interactive process" stipulated by the ADA, with Dr. Stallings.

Tuesday 9/10/13, Dr. Stallings reported to HR, and completed The Separation of Service document, and accepted her coerced retirement from her employer of ten (10) years, Detroit Public Schools.

RELIEF REQUESTED

Plaintiff requests that this honorable Court enter an order granting her: All available damages for lost wages, seniority, and benefits, past and future, emotional distress, mental anguish, humiliation, outrage, embarrassment, pain and suffering, loss of job opportunity, loss of earning capacity to which she is entitled, and award such other relief as this Court deems just and proper.

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U.S. Department of Justice

Civil Rights Division

NOTICE OF RIGHT TO SUE
WITHIN 90 DAYS

CERTIFIED MAIL
2014 4286

950 Pennsylvania Avenue, N.W.
Karen Ferguson, EMP, PHB, Room 4239
Washington, DC 20530

June 19, 2014

Ms. Phyllis M. Stallings
1492 Sheridan Street
Detroit, MI 48214

Re: EEOC Charge Against Detroit Public Schools
No. 471201303565

Dear Ms. Stallings:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. 12111, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice. If you cannot afford or are unable to retain an attorney to represent you, you may, at its discretion, assist you in obtaining an attorney. If the Court may, at its discretion, assist you in finding an attorney, you must make this request of the Court in the form and manner it requires. Your request to the Court should be made well before the end of the time period mentioned above. A request for representation does not relieve you of the obligation to file suit within this 90-day period.

The investigative file pertaining to your case is located in the EEOC Indianapolis District Office, Indianapolis, IN.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Jocelyn Samuels
Acting Assistant Attorney General
Civil Rights Division

by *Karen L. Ferguson*

Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Indianapolis District Office, EEOC
Detroit Public Schools

New Lawsuit Check List

Instructions: Put a check mark in the box next to each appropriate entry to be sure you have all the required documents.

<input checked="" type="checkbox"/>	Two (2) completed Civil Cover Sheets.		
<input checked="" type="checkbox"/>	Enter the number of defendants named in your lawsuit in the blank below, add 2 and then enter the total in the blank. 1 + 2 = 3 Complaints. <small># of Defendants Total</small>		Case: 2:14-cv-13189 Judge: Roberts, Victoria A. MJ: Whalen, R. Steven Filed: 08-18-2014 At 01:37 PM cmp STALLINGS V. DETROIT PUBLIC SCHOOLS (TAM)
<input checked="" type="checkbox"/>	Received by Clerk: <u>AN</u> Addresses are complete: <u>N/A</u>		
<input checked="" type="checkbox"/>	If any of your defendants are government agencies: Provide two (2) extra copies of the complaint for the U.S. Attorney and the Attorney General.		
If Paying The Filing Fee:		If Asking That The Filing Fee Be Waived:	
<input checked="" type="checkbox"/>	Current new civil action filing fee is attached. Fees may be paid by check or money order made out to: <i>Clerk, U.S. District Court</i>	<input type="checkbox"/>	Two (2) completed Application to Proceed in District Court without Prepaying Fees or Costs forms.
	Received by Clerk: <u>AN</u> Receipt #: <u>DET 070675</u>		Received by Clerk: _____
Select the Method of Service you will employ to notify your defendants:			
Service via Summons by Self		Service by U.S. Marshal (Only available if fee is waived)	Service via Waiver of Summons (U.S. Government cannot be a defendant)
<input checked="" type="checkbox"/>	Two (2) completed summonses for each defendant including each defendant's name and address.	<input type="checkbox"/> <input type="checkbox"/> Two (2) completed USM – 285 Forms per defendant, if you are requesting the U.S. Marshal conduct service of your complaint. Two (2) completed Request for Service by U.S. Marshal form.	<input type="checkbox"/> You need not submit any forms regarding the Waiver of Summons to the Clerk. <u>Once your case has been filed, or the Application to Proceed without Prepaying Fees and Costs has been granted, you will need:</u> <ul style="list-style-type: none">• One (1) Notice of a Lawsuit and Request to Waive Service of a Summons form per defendant.• Two (2) Waiver of the Service of Summons forms per defendant. Send these forms along with your filed complaint and a self-addressed stamped envelope to each of your defendants.
Clerk's Office Use Only			

Note any deficiencies here:

JS 44 (Rev. 12/12) CIVIL COVER SHEET County in which action arose _____

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS <i>Phyllis M. STALLINGS, Esq.</i> 1492 SHERIDAN ST Detroit MI 48214-2408 (b) County of Residence of First Listed Plaintiff <i>Wayne</i> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small>		DEFENDANT <i>Gwendolyn A. de Jonath, Esq.</i> Detroit Public Schools FISHER Bldg. 10th floor 3011 W. Grand Blvd. Detroit MI 48202 County of Residence of First Listed Defendant <i>Wayne</i> <small>(IN U.S. PLAINTIFF CASES ONLY)</small> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.		
(c) Attorneys (Firm Name, Address, and Telephone Number)		Attorneys (If Known)		
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)		
<input type="checkbox"/> 1 U.S. Government Plaintiff		<input type="checkbox"/> PTF Citizen of This State		
<input type="checkbox"/> 2 U.S. Government Defendant		<input checked="" type="checkbox"/> DEF Incorporated or Principal Place of Business In This State		
<input type="checkbox"/> 3 Federal Question <small>(U.S. Government Not a Party)</small>		<input type="checkbox"/> PTF Citizen of Another State		
<input type="checkbox"/> 4 Diversity <small>(Indicate Citizenship of Parties in Item III)</small>		<input type="checkbox"/> DEF Incorporated and Principal Place of Business In Another State		
		<input type="checkbox"/> 5 Citizen or Subject of a Foreign Country		
		<input type="checkbox"/> 6		
IV. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT <ul style="list-style-type: none"> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise 	TORTS <ul style="list-style-type: none"> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice 	FORFEIT <ul style="list-style-type: none"> <input type="checkbox"/> 625 Drug of Pr. <input type="checkbox"/> 690 Other 	Case 2:14-cv-13189 Judge: Roberts, Victoria A. MJ: Whalen, R. Steven Filed: 08-18-2014 At 01:36 PM cmp STALLINGS V. DETROIT PUBLIC SCH OOLS (TAM)	
			PERSONAL INJURY <ul style="list-style-type: none"> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability 	
			PERSONAL PROPERTY <ul style="list-style-type: none"> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability 	
			LABOR <ul style="list-style-type: none"> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation 	
			SOCIAL SECURITY <ul style="list-style-type: none"> <input type="checkbox"/> 861 HIA (1395ft) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) 	
			FEDERAL TAX SUITS <ul style="list-style-type: none"> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 	
			IMMIGRATION <ul style="list-style-type: none"> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions 	
			REAL PROPERTY <ul style="list-style-type: none"> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property 	
			CIVIL RIGHTS <ul style="list-style-type: none"> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education 	
			PRISONER PETITIONS <ul style="list-style-type: none"> <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement 	
V. ORIGIN (Place an "X" in One Box Only)				
<input checked="" type="checkbox"/> 1 Original Proceeding				
<input type="checkbox"/> 2 Removed from State Court				
<input type="checkbox"/> 3 Remanded from Appellate Court				
<input type="checkbox"/> 4 Reinstated or Reopened				
<input type="checkbox"/> 5 Transferred from Another District (Specify)				
<input type="checkbox"/> 6 Multidistrict Litigation				
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):				
Brief description of cause:				
VI. CAUSE OF ACTION		CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.		
VII. REQUESTED IN COMPLAINT:		DEMAND S		
VIII. RELATED CASE(S) IF ANY		(See instructions): JUDGE DOCKET NUMBER		
DATE May 5, 2013		SIGNATURE OF ATTORNEY OF RECORD <i>August 18, 2014 Phyllis M. Stallings</i>		
FOR OFFICE USE ONLY		RECEIPT # AMOUNT APPLYING IFF JUDGE MAG. JUDGE		

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

- Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

- Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
